

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NO. 310134.402USPC
		U.S. APPLICATION NO. (If known, see 37 CFR 1.5)
		10/520,986
INTERNATIONAL APPLICATION NO. PCT/GB2003/002962	INTERNATIONAL FILING DATE 09 July 2003	PRIORITY DATE CLAIMED 10 July 2002
TITLE OF INVENTION MOLECULAR DETECTOR ARRANGEMENT		
APPLICANT(S) FOR DO/EO/US Richard GILBERT; Xiao-Feng ZHOU; and Brian Philip ALLEN		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<p>1. <input type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371.</p> <p>2. <input checked="" type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371.</p> <p>3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.</p> <p>4. <input type="checkbox"/> The US has been elected (Article 31).</p> <p>5. <input type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)).</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> has been communicated by the International Bureau.</p> <p style="margin-left: 20px;">c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</p> <p>6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> is attached hereto.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</p> <p>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> have been communicated by the International Bureau.</p> <p style="margin-left: 20px;">c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</p> <p style="margin-left: 20px;">d. <input type="checkbox"/> have not been made and will not be made.</p> <p>8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).</p> <p>9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).</p> <p>10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).</p>		
Items 11 to 20 below concern document(s) or information included:		
<p>11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</p> <p>13. <input type="checkbox"/> A preliminary amendment.</p> <p>14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76</p> <p>15. <input type="checkbox"/> A substitute specification.</p> <p>16. <input type="checkbox"/> A power of attorney and/or change of address letter.</p> <p>17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 – 1.825.</p> <p>18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).</p> <p>19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).</p> <p>20. <input checked="" type="checkbox"/> Other items or information: Response to Decision of September 8, 2006; Copy of Decision of September 8, 2006</p>		

RECEIVED

22 SEP 2006

Legal Staff
International Division

U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 10/520,986		INTERNATIONAL APPLICATION NO. PCT/GB2003/002962	ATTORNEY'S DOCKET NUMBER 310134.402USPC																																																																																																	
<p>The following fees are submitted</p> <table border="1"> <tr> <td>21. <input type="checkbox"/> Basic national fee (37 CFR 1.492(a)).....</td> <td>\$300.00</td> <td>\$.00</td> <td></td> </tr> <tr> <td>22. <input type="checkbox"/> Examination fee (37 CFR 1.492(c)) If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)</td> <td>\$ 0.00</td> <td></td> <td></td> </tr> <tr> <td>All other situations</td> <td>\$200.00</td> <td>\$.00</td> <td></td> </tr> <tr> <td>23. <input type="checkbox"/> Search fee (37 CFR 1.492(b)) If the written opinion of the ISA/US or the international preliminary examination report prepared by the IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4).....</td> <td>\$ 0.00</td> <td></td> <td></td> </tr> <tr> <td>Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority.....</td> <td>\$100.00</td> <td></td> <td></td> </tr> <tr> <td>International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB.....</td> <td>\$400.00</td> <td></td> <td></td> </tr> <tr> <td>All other situations</td> <td>\$500.00</td> <td>\$.00</td> <td></td> </tr> <tr> <td colspan="2" style="text-align: right;">TOTAL OF 21, 22 AND 23 =</td> <td>\$.00</td> <td></td> </tr> <tr> <td colspan="4"> <input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof. </td> </tr> <tr> <td>Total Sheets</td> <td>Extra Sheets</td> <td>Number of each additional 50 or fraction thereof (round up to a whole number)</td> <td>RATE</td> </tr> <tr> <td>- 100 =</td> <td>/50 =</td> <td></td> <td>X \$250.00</td> </tr> <tr> <td colspan="4">Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).</td> </tr> <tr> <td>Claims</td> <td>Number Filed</td> <td>Number Extra</td> <td>Rate</td> </tr> <tr> <td>Total Claims</td> <td>- 20 =</td> <td></td> <td>x \$ 50.00</td> </tr> <tr> <td>Independent Claims</td> <td>- 3 =</td> <td></td> <td>x \$ 200.00</td> </tr> <tr> <td colspan="2">MULTIPLE DEPENDENT CLAIM(S) (if applicable)</td> <td></td> <td>+ \$360.00</td> </tr> <tr> <td colspan="2" style="text-align: right;">TOTAL OF ABOVE CALCULATIONS =</td> <td>\$.00</td> <td></td> </tr> <tr> <td colspan="4"> <input type="checkbox"/> Applicant claims small entity status. 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<p>a. <input type="checkbox"/> A check in the amount of \$____ to cover the above fees is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. 19-1090 in the amount of \$____ to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-1090. A duplicate copy of this sheet is enclosed.</p> <p>d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>e. <input checked="" type="checkbox"/> If there is a deficiency in the basic national fee, the Commissioner is authorized to charge such deficiency to Deposit Account No. 19-1090. A duplicate of this sheet is enclosed. This is not a general authorization to charge the Deposit Account for any extra claim, examination, search or extra sheet fees.</p>		
<p>NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.</p>		
<p>SEND ALL CORRESPONDENCE TO:</p> <p><u>Stephen J. Rosenman, Ph.D.</u> Seed Intellectual Property Law Group PLLC 701 5th Avenue, Suite 6300 Seattle, WA 98104-7092 United States of America (206) 622-4900</p> <p><u>Stephen J. Rosenman, Ph.D.</u> NAME</p> <p><u>43.058</u> REGISTRATION NUMBER</p>		

PATENT COOPERATION TREATY

Applicants : Richard GILBERT, Xiao-Feng ZHOU and Brian Philip ALLEN
Int'l Application No. : PCT/GB2003/002962
U.S. Application No. : 10/520,986
Int'l Filing Date : 9 July 2003
Title : MOLECULAR DETECTOR ARRANGEMENT

Docket No. : 310134.402USPC
Date : September 21, 2006

PCT Legal Office
Mail Stop PCT
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION OF SEPTEMBER 8, 2006

Commissioner for Patents:

Applicants thank the Commissioner for withdrawing the holding of abandonment pursuant to the evidence in the Petition to Accord a Filing Date (“Petition”), which was submitted by Applicants on July 25, 2006.

The PCT Legal Examiner’s inspection of the copy of the July 27, 2005 Declaration, which was submitted with the Petition, revealed a discrepancy whereby the name of the second inventor appeared as “Xiao-Feng ZHOU”, while the published international application (PCT/GB2003/002962) names as an inventor “XHOU, Xiao-Feng”.

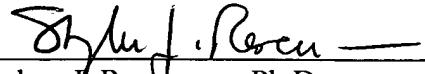
The undersigned representative has verified that the proper spelling of the second inventor’s name is indeed “Xiao-Feng ZHOU”. Any typographical errors that arose are on the part of the International Bureau at publication, insofar as Xiao-Feng ZHOU’s name was properly spelled in the PCT Request.

Express Mail No.: EV719380741US
International Application No.: PCT/GB2003/002962
International Filing Date: 9 July 2003

Please contact the undersigned representative if any additional information is required.
Issuance of a filing receipt and a Notice of Acceptance for this application are respectfully requested.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Stephen J. Roseman, Ph.D.
Registration No. 43,058

SJR:rp

Enclosure: Copy of Decision of September 8, 2006

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
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08 SEP 2006

United States Patent and Trademark Office



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-145
www.uspto.gov

SJR

Stephen J. Rosenman
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701 5th Avenue
Suite 6300
Seattle WA 98104-7092

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SEP 11 2006

Seed Intellectual Property
Law Group PLLC

In re Application of
Gilbert et al.
Application No. 10/520,986
PCT No.: PCT/GB03/02962
Int. Filing Date: 09 July 2003
Priority Date: 10 July 2002
Atty. Docket No.: 310134.402USPC ✓
For: Molecular Detector Arrangement

DECISION

Response to
discrepancy in the
Declaration
Oct. 8, 2006
ENTERED IN DOCKET

This is in response to the "Petition To Accord A Filing Date" filed on 25 July 2006.

DISCUSSION

In a Notification mailed on 30 June 2006, the correspondence filed on 02 June 2006 was treated as follows:

The instant correspondence urges that "a copy of the Response as filed on July 27, 2005" be accepted on the basis of return postcard receipt evidence. However, the instant correspondence has not been signed by a registered patent attorney or agent. Further, it appears to have been prepared and signed by "Rosie Price, Legal Assistant to Stephen J. Rosenman, Ph.D." It would not be appropriate to consider the merits of this correspondence (which is in effect a petition to accord a filing date to the "copy of the Response as filed on July 27, 2005") in the absence of the signature of a registered practitioner.

The instant petition is signed by a registered practitioner, who cites an accompanying copy of a return postcard receipt. Said postcard receipt is stamped as "Rec'd PCT/PTO 27 JUL 2005" and itemizes the following:

Check; Transmittal Letter (3 pages + copy); Declaration for Utility or Design Application Using an Application Data Sheet (1 page); Election and Power of Attorney; Statement under 37 C.F.R. § 3.73(b); Form PTO-1595; Assignment (3 pages); Information Disclosure Statement, Form PCT-1449 (1 page); Copies of Cited References (11); and Copy of Notification of Missing Requirements (PCT/DO/EO/905)

The petition is accompanied by copies of a Transmittal Letter, a Declaration, an "Election and Power of Attorney," a statement under 37 CFR 3.73(b), an assignment, an IDS (Form PTO-1449) and 11 prior art references. Petitioner states that, *inter alia*, the stamped postcard receipt and the "Response to Notification of Missing Requirements are true copies." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the

date stamped thereon by the PTO.” Following that practice, the itemized correspondence (including *inter alia* the declaration) is regarded as a copy of the correspondence originally filed on 27 July 2005. Since said correspondence included an executed declaration (in response to the requirement set by the Form PCT/DO/EO/905 mailed on 12 July 2005), the holding of abandonment is hereby WITHDRAWN.

Inspection of the 25 July 2006 copy of the declaration originally filed on 27 July 2005 reveals that it names “Xiao-Feng ZHOU” as the second inventor, while the published international application nominates “XHOU, Xiao-Feng.” It is not clear from the record whether this discrepancy arose from a mere typographic error or phonetic misspelling of applicant’s name or, alternatively, whether it reflects a substantive change in the name or identity of the inventor. If the latter case obtains, a proper petition and fee under 37 CFR 1.182 would be required to resolve this matter. *See* MPEP § 605.04(b) and MPEP § 201.03(b). In the absence of an acceptable petition and/or statement addressing this discrepancy, or alternatively a newly executed declaration naming the same inventive entity as nominated in the published international application, it would not be appropriate to accept the declaration under 37 CFR 1.497(a) and (b) at this time.

CONCLUSION

The petition is GRANTED to the extent described above.

Applicants have **ONE (1) MONTH** to file a proper response addressing the discrepancy in the declaration described above. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to file a timely response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration



George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459